

Protection Order Committee
Judicial Conference of Indiana

Minutes
January 31, 2014

The Protection Order Committee met at the Indiana Judicial Center on Friday, January 31, 2014, from 12:00 noon – 3:30 p.m.

1. Members present. Barbara L. Cook Crawford, Elizabeth Ann Cure, Jennifer Lynne DeGroote, Thomas P. Hallett, Valeri Haughton, J. David Holt, Justin H. Hunter, John D. Kitch, Jose D. Salinas, Ronald T. Urdal and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, Tom Jones and Ruth Reichard provided the committee with staff assistance.
3. Guests. LaJuan Epperson, Division of State Court Administration, and Marcia Moore, Hancock County Clerk was also present.
4. New members. New members Jennifer Lynne DeGroote and Justin H. Hunter introduced themselves.
5. Minutes approved. The minutes for the meeting on October 25, 2013 were approved.
6. Protection Order Registry.
 - a. LaJuan Epperson reported the new Protection Order Registry is under development. It will have a listing of the major changes and uTube demos linked to the new website. A memo will be sent to courts and clerks when the new website launches. Committee members agreed the memo be sent to Senior Judges as well.
 - b. LaJuan Epperson showed PO-0130, Order Finding Respondent in Civil Contempt for Failure to Obey Order of Protection, needed revision to its dispositional alternatives, giving 1. c. on page 2. its own line. Committee members made additional suggestions for revisions including using the word “additional” before locations on p. 2 and more alternatives to incarceration for contempt. Judge Urdal and Judge Cure agreed to work on a revision of the form for the next meeting.
 - c. LaJuan Epperson showed NC-0103, No Contact Order – CHINS, which indicates a petition was filed. The form covers Ind. Code § 31-34-20, which does not require a petition and Ind. Code § 31-34-25 which does require a petition. Committee members agreed by consensus to give a choice to the form user permitting one to note either a petition was filed or the No Contact Order was granted based on a request. Jeff Bercovitz agreed to prepare this revision for the Committee.
 - d. Tom Jones distributed information about Project Passport, which encourages states to use a uniform cover sheet. Indiana and 37 other states have adopted this uniform cover sheet and the committee thanked him and Ruth Reichard for their efforts for Indiana.
 - e. Committee members discussed the recent request of the Indiana Attorney General’s office to access Indiana’s Protection Order Registry in order to assist in their efforts to get Protection Order petitioners to use the Hope Card. Committee members discussed (a) a letter to the petitioner from the Attorney General’s office about the Hope Card may jeopardize the Petitioner’s safety; (b) a letter from the Attorney General may scare petitioners, and (c) a better solution for use of the Hope Card is to have brochures available

when filing for a protection order, train victim advocates and clerks about their use, and combine with other materials for victims.

7. Instructions for a petition filed on behalf of a minor. Judge Cure, Ruth Reichard and LaJuan Epperson distributed revisions to PO-0103, Instructions for Petition filed on Behalf of a Minor to members of the committee. The revisions clarified the petitioner was the minor. Judge Cure, Ruth Reichard and LaJuan Epperson agreed to make additional revisions based on the committee's comments.
8. Foreign protection orders. Judge Crawford and LaJuan Epperson distributed revised forms PO-0119 and PO-0120 used to place a foreign protection order on Indiana's Protection Order Registry. The revisions clearly indicated that the foreign protection order's custody provisions should be included in Indiana's protection order registry. Committee members agreed to remove sections II, III and IV from PO-0120. Judge Crawford and LaJuan Epperson agreed to revise the forms based on the committee's comments.
9. Lack of prohibition of indirect contact in WVRO-0106. Judge Goff reported a recent case in which a respondent made an indirect contact threatening a protected party under a Workplace Violence Protection Order, WVRO-0106. The indirect contact was not prohibited by Indiana's form order. Magistrate Hallett agreed to prepare revisions to this form to prohibit indirect contact.
10. Protection Orders in Spanish. Ruth Reichard reported the Division of State Court Administration is close to hiring a new attorney to staff the Race and Gender Fairness Committee, who works in the area of form translation.
11. Recent legislation. Jeffrey Bercovitz distributed HB 1014, which would permit a domestic violence advocate to testify in civil case. This bill passed committee. HB 1016 was filed, which would permit a child to file a protection order without use of a next friend, which did not receive a hearing.
12. Future meeting dates. Committee members agreed to meet again on February 28, 2014 from 12:00 Noon – 3:30 p.m. at the Indiana Judicial Center. They also agreed to meet on March 28, June 27, August 22, and October 24, 2014 from 12:00 noon – 3:30 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes

February 28, 2014

The Protection Order Committee met at the Indiana Judicial Center on Friday, February 28, 2014, from 12:00 noon – 3:30 p.m.

1. Members present. David L. Chidester, Barbara L. Cook Crawford, Elizabeth Ann Cure, Jennifer Lynne DeGroote, Matthew B. Gruett, Thomas P. Hallett, Justin H. Hunter, Robert E. Ross, Jose D. Salinas and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, Tom Jones and Ruth Reichard provided the committee with staff assistance.
3. Guests. Wendy Bollenbacher, Marshall County Clerk's Office was also present.
4. Minutes approved. The minutes for the meeting on January 31, 2014 were approved.
5. Instructions for a petition filed on behalf of a minor. Judge Cure and Ruth Reichard distributed revisions to PO-0101 and PO-0103, Petition and Instructions for Petition filed on Behalf of a Minor to members of the committee. The revisions were adopted by consensus.
6. Foreign protection orders. Judge Crawford and LaJuan Epperson distributed revised forms PO-0119 and PO-0120 for placement of a foreign protection order on Indiana's Protection Order Registry. The revisions to these forms were adopted. Sections III, IV and V were removed from PO-0120 and a new form was created for modification, termination, and address changes on foreign protection orders with a confidential form as the last page. Members of the committee agreed to review this new form as revised at the next meeting.
7. Lack of prohibition of indirect contact in WV-0106. Magistrate Hallett distributed revisions to WV-0106 to prohibit indirect contact in the Workplace Violence Restraining Order and WV-0101, the petition for this order. Committee members approved the revisions by consensus.
8. Petition filed and NC-0103. Jeffrey Bercovitz distributed a revised No Contact Order for CHINS cases, in which the court could indicate whether a petition could be filed. Members of the committee approved this form by consensus.
9. Presentation by Ruth Reichard.
 - a. Ruth Reichard, Family Law Staff Attorney, Division of State Court Administration reported she drafted a new section on Protection Orders for the Trial Court Administration Division Manual.
 - b. Ruth Reichard distributed an article, Are Protection Orders Effective in Reducing Intimate Partner Violence?, which she authored in Indiana Court Times dated Feb. 7, 2014. She discussed the article and also distributed an Executive Summary of a study of Kentucky Civil Protective Orders noted in the article to committee members.

10. Recent legislation. Jeffrey Bercovitz distributed HB 1014, which would permit evidence of a conviction of domestic violence to be introduced in a separation or dissolution case and permits the dissolution to be entered earlier than 60 days after filing.
11. Future meeting dates. Committee members agreed to meet again on March 28, 2014 from 12:00 Noon – 3:30 p.m. at the Indiana Judicial Center and they agreed (1) to discuss the new form for modification, termination, and address changes on foreign protection orders with a confidential form as the last page for foreign protection orders, PO-0130, and (2) renewal/refilling protection orders. They also agreed to meet on June 27, August 22, and October 24, 2014 from 12:00 noon – 3:30 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes
March 28, 2014

The Protection Order Committee met at the Indiana Judicial Center on Friday, March 28, 2014, from 12:00 noon – 3:30 p.m.

1. Members present. David L. Chidester, Matthew B. Gruett, Thomas P. Hallett, Robert E. Ross, Ronald T. Urdal and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, LaJuan Epperson, Tom Jones and Ruth Reichard provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on February 28, 2014 were approved.
4. POR report. LaJuan Epperson discussed various revisions in connection with the revised Protection Order Registry.
 - a. Committee members agreed to revise WV-0102, paragraph 11, and WV-0106, paragraph 8, to add “other” to the proof of service possibilities for these forms. In response to another question, they agreed no confidential form was needed for workplace violence restraining orders.
 - b. Committee members agreed all the No Contact Orders needed to be revised to indicate “Level/Class” since the new criminal code with Levels for felonies and Class for misdemeanors will be effective July 1, 2014.
 - c. Members of the committee agreed to require a criminal charge be indicated in all No Contact Orders.
 - d. Committee members agreed that in all No Contact Orders, paragraph 1 must be checked and a name must be entered. The protection order registry will populate this field for selection of the name.
 - e. Members of the committee agreed if paragraph 5, which is other conditions, is checked, then information for this paragraph must be completed. It cannot be left blank.
 - f. Committee members agreed in NC-0107, an order which vacates or modifies a No Contact Order, to add language indicating whether or not a hearing is held. If a hearing was held, then a court must indicate if the state was represented and/or the defendant and/or attorney for defendant was present.
 - g. Members of the committee discussed PO-0113, the length of time a person could order the respondent to surrender a firearm. They agreed the language permitting the surrender period to be period of time of the protection order, or longer if ordered by the court, matched Indiana’s statute.
5. Registration of foreign protection orders. LaJuan Epperson distributed previously revised forms PO-0119 and PO-0120 for placement of a foreign protection order on Indiana’s Protection Order Registry. A new form, PO-0131 was created for modification,

termination, and address changes on foreign protection orders, with a confidential form as the last page. Members of the committee agreed approved this new form as revised.

6. Renewal/refiling of protection orders

a. Ruth Reichard, Family Law Staff Attorney, Division of State Court Administration distributed a chart from the National Center for State Courts, which showed the length of time of protection orders from all the states. She also distributed a memo containing responses to a question on renewal/refiling of protection orders from a listserve in this area.

b. Jeffrey Bercovitz distributed Indiana's statute on renewal/extension of protection orders and old forms in this area.

c. Judge Chidester reviewed information from other states and discussed with committee members due process concerns with renewal, filing for modification before or after the expiration of the original order and other related concerns. He agreed to revise Chapter 9 to address this area.

7. Next meeting dates. Committee members agreed to meet again on June 27, 2014 from 12:00 Noon – 3:30 p.m. at the Indiana Judicial Center and they agreed (1) to discuss proposed revisions to the contempt form, Chapter 9 revisions, and review No Contact Order revisions made today. They agreed to meet again on August 22, and October 24, 2014 from 12:00 noon – 3:30 p.m. at the Indiana Judicial Center. Meeting dates of January 30, February 27 and March 27, 2015 were proposed.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes
June 27, 2014

The Protection Order Committee met at the Indiana Judicial Center on Friday, June 27, 2014, from 12:00 noon – 3:30 p.m.

1. Members present. David L. Chidester, Barbara L. Cook Crawford, Jennifer Lynne DeGroote, Thomas P. Hallett, Justin H. Hunter, John D. Kitch, Robert E. Ross, Ronald T. Urdal and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, LaJuan Epperson, Tom Jones Ruth Reichard and Jeff Wiese provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on March 28, 2014 were approved.
4. Notice of revised forms and Deskbook. Committee members reviewed a notice and all revised and new Protection Order, No Contact Order, and Workplace Violence Restraining Order forms and Protection Order Deskbook chapters for posting on the committee's website.
5. No Contact Order "relationships." Members of the committee reviewed a recent email from Ms. Donna Sipe concerning the Protection Order Registry screens used to describe the relationship between the defendant and the protected party in no contact orders. LaJuan Epperson stated the wording in the Registry input screen was revised to reflect the correct relationship between the protected party and the victim.
6. Protection Order records – other states. Tom Jones distributed a handout of protection order databases and registries from Indiana, Connecticut, California, and Pennsylvania. He reported many databases were not accessible to the public, which would prevent the issue in *Cook v. Cook*, where a party wished to be excluded from the database. Selected screens from Indiana's current public registry were examined.
7. Administrative Rule 9, use of initials for juveniles.
 - a. Committee members reviewed Administrative Rule 9 and the use of initials for juveniles. They concluded the names of the juvenile could be used on protection orders, unless the juvenile was the victim of a sex crime under Administrative Rule 9 (G) (1) (3) (i).
 - b. Members of the committee reviewed a request from Mag. Berish to review their court's practice of filing of protection orders under a JM case number if the petitioner and respondent were both under 18 years of age. Members of the committee indicated the protection orders with a juvenile petitioner and juvenile respondent were not confidential. Initials for the names on these orders should not be used. The procedure indicated by the statute to enter the protection order and transfer the case to the juvenile court should be

used. Once the protection order case is in the juvenile court, Ind. Code § 31-39-1-2 could be used to have the juvenile court close the files and declare the proceeding confidential.

c. Committee members noted the Protection Order Registry permits the court to use initials for any case. Once Odyssey pulled the case from the Registry to Odyssey, Odyssey would keep the initials and make the names harder to identify. Members of the committee agreed by consensus when the protection order case involves a petitioner and a respondent less than 18 years of age in the Registry, which then moves into Odyssey, the full name should be used in Odyssey.

d. LaJuan Epperson asked which No Contact Order should be used for a status delinquent. NCO-0104 should be used for both status and crime delinquents.

e. LaJuan Epperson asked which case type should be used for Child Protection Orders for CHPO-0100 and CHPO-0101. Committee members indicated the JM case type should be used.

8. Deskbook amendments.

a. Committee members agreed to add language indicating a victim advocate is permitted to sit with a victim in court; and the new URL indicated on the title page for the Protection Order website be updated.

b. Committee members agreed the updated "Civil Protection Order Act and Hearings" be posted on the Protection Order Committee website.

9. Fees for protection orders. Judge Goff, chair recently received a letter from a judge urging the charging of fees for protection orders. Ruth Reichard distributed Title 42, Section 3796-gg-5 (pgs 5093-5094) and Title 42, Section 3796-hh-c-4(p. 5100) in the Federal Register. These rules require states to certify no fees are charged in order to receive federal money for various programs. Judge Goff agreed to contact the judge with this information.

10. Chapter 9, Deskbook.

a. Judge Chidester distributed proposed changes to Chapter 9, Protection Order Deskbook to provide for modifications, extensions and termination of protection orders, and a form to request this relief. He agreed to revise based on committee discussion, including looking at revising the information about a Respondent seeking a modification of a protection order.

b. Committee members agreed to review the proposed wording changes above, PO-0117 wording changes, and *A.N. v. K.G.* for the next meeting of the committee, which will be distributed to the committee.

11. Other.

a. Members of the committee discussed whether the holder of a Power of Attorney could file a petition to obtain a Protection Order on behalf of the person who executed it. Judge Hunter agreed to try to determine whether a Protection Order sought in this manner could be granted.

b. Jeffrey Bercovitz discussed an instance where a court prohibited possession of a handgun, but the respondent was not Brady disqualified.

- c. Jeffrey Bercovitz reviewed a case where a person had difficulty from the TSA when returning to the United States because a protection order was in effect.
12. Next meeting dates. Committee members agreed to meet again on August 22, and October 24, 2014 from 12:00 noon – 3:30 p.m. at the Indiana Judicial Center. They also agreed to meet again on January 30, February 27 and March 27, and June 26, 2015 from 12:00 Noon – 3:30 p.m.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
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Minutes

August 22, 2014

The Protection Order Committee met at the Indiana Judicial Center on Friday, August 22, 2014, from 12:00 noon – 3:30 p.m.

1. Members present. David L. Chidester, Barbara L. Cook Crawford, Elizabeth Ann Cure, Jennifer Lynne DeGroote, Matthew B. Gruett, Thomas P. Hallett, J. David Holt, Justin H. Hunter, and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, LaJuan Epperson, Tom Jones, and Ruth Reichard provided the committee with staff assistance.
3. Guest. Clerk Marcia R. Moore, Hancock County, also attended the meeting.
4. Minutes approved. The minutes for the meeting on June 27, 2014 were approved.
5. Chapter 9 Modification. Judge Chidester reviewed changes to Chapter 9 on modifications to the Protection Order Deskbook. The committee agreed to the revisions by consensus. Committee members agreed to review a new form petition for modifications, PO-0116 at the October meeting of the committee.
6. Power of Attorney for Petition for PO. Judge Hunter reported Ind. Code § 30-5-5-11 gave very broad powers to the holder of the power of attorney (POA). Committee members discussed whether **Simmons v. Carter**, 576 N.E.2d 1278 (Ind. Ct. App. 1995), which indicated the holder of the POA cannot represent anyone in a small claims proceeding, applied to protection order cases. Judge Hunter agreed to come to the next meeting of the committee after review of this case and integrating the recommendation an attorney should be used for the holder of the POA in Chapter 1. Also, he agreed to clarify who the petitioner is in the petition for a protection order.
7. Registry questions.
 - a. Committee members discussed whether the court in PO-0113, and Order for Protection should be permitted to order the Petitioner, rather than the Respondent to pay support? Since this was not allowed by statute, the committee agreed there were no revisions to this form needed.
 - b. Members of the committee discussed whether the Order of Contempt PO-0130 should be on the Registry in addition to the website, since the Petition for Contempt is on the Registry. Committee members agreed not to place this on the registry because the form was not used often and many courts use their own contempt forms.
 - c. Committee members discussed encouraging the use of GPS devices for the Respondent when a modification of a protection order occurred. Members of the committee discussed how the use of GPS was limited since contempt petitions were not

filed often, and if the protection order violation was serious, criminal charges were likely to be filed.

8. Chapter 2 - Clerk

a. Jeff Bercovitz reported a question was recently raised about whether Clerks should accept filings of protection order petitions which do not meet the statutory criteria. Committee members noted Chapter 2, pages 1 and 3 urges clerks accept the petition. Ruth Reichard agreed to look at making sure this information was coordinated with a new administrative procedure manual for court personnel under review for the next meeting of the committee. Magistrate Hallett agreed to review forms PO-0109 and PO-0110 to provide courts with the appropriate choices if the petition is filed and later dismissed by the court.

b. Ruth Reichard also agreed to draft language for Chapter 2 which reports the federal language requiring any state to permit the filing and service of a protection order, including service of protection orders from other states.

9. Other

a. Jeffrey Bercovitz distributed the report of committee activities this past year by Judge Goff.

b. Jeffrey Bercovitz distributed a recent memo distributed by Lilia Judson to all courts on the use of names, rather than initials of juveniles in protection order cases. (Attachment No. 1)

c. Jeffrey Bercovitz announced a session on Protection Orders would be held from 2:00 – 4:15 p.m. at the Annual Meeting of the Judicial Conference and invited all committee members to attend.

10. Next meeting dates. Committee members agreed to meet again on October 24, 2014 from 12:00 noon – 3:30 p.m. at the Indiana Judicial Center. They also agreed to meet again on January 30, February 27 and March 27, June 26 and August 28, 2015 from 12:00 Noon – 3:30 p.m. at the Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Bercovitz, Jeff

From: Judson, Lilia
Sent: Monday, August 18, 2014 2:35 PM
To: *Juvenile Judges; *Magistrates; *Trial Court Judges; *Commissioners Referees Full-Time;
*Commissioners Referees Part-Time
Cc: Goff, Christopher; Reichard, Ruth; Bercovitz, Jeff
Subject: Correct case type designation for protective orders involving juveniles
Attachments: Protective Orders involving juveniles.docx

Dear Judicial Officers,

Please see the attached memo regarding the appropriate case type designation for protective order cases involving juveniles. This memo is a joint product of the Judicial Conference Protection Order Committee and our office. Questions may be directed to Jeff Bercovitz or Ruth Reichard at above email addresses.

*Lilia Judson
Executive Director
Indiana Supreme Court Division of State Court Administration*

*30 South Meridian St. Suite 500
Indianapolis, IN 46204*

317-232-2542

lilia.judson@courts.in.gov

MEMORANDUM

TO: All Judicial Officers

FROM: Lilia G. Judson, Judge Christopher Goff, and the Protection Order Committee of the Indiana Judicial Conference

RE: The Use of Initials in Protection Order Cases Involving Juveniles

DATE: August 18, 2014

In light of recent discussions concerning the practices of trial courts when protection order cases involve juveniles, we feel compelled to advise judges about the proper procedures to follow when initiating a protection order case involving a juvenile petitioner, respondent, or protected person. We understand that judges are concerned about protecting the identities of the affected juveniles, and we hope this Memorandum addresses those concerns.

What Case Type Should I Assign to a Protection Order Case with Juveniles?

Always assign a PO case type to a protection order case. Although some courts assign a JM case type with the aim of keeping the identities of the juvenile parties confidential, this is not appropriate. A PO case type is necessary so that the enforcing authorities can easily locate the case and access accurate information about the order in the event of an alleged violation. Additionally, using the proper case type ensures that your court's workload is measured correctly under the weighted caseload metrics; the weighted caseload factor for a PO case is 37 minutes, while that of a JM case is only 12 minutes. The only time a JM case type should be used for a protection order is when the case is filed by DCS under Ind. Code 31-34-2.3, and the court issues orders using forms CHPO-100 and CHPO-101.

Doesn't Administrative Rule 9 Empower Me to Use Juveniles' Initials?

Admin. R. 9 only authorizes the use of initials for juveniles who are victims of sex crimes. *See* Admin. R. 9 (G)(1)(e)(i).¹ The Indiana Civil Protection Order Act (Ind. Code 34-26-5-1 *et seq.*) does allow victims of sex crimes to petition for protection orders, and in those cases, it is true that only the juvenile's initials should appear in the caption and throughout the petition and order. In all other protection order cases, however, the juvenile's full name must appear. This is true whether the juvenile is a petitioner or a respondent. A name is not confidential under Admin. R. 9.

What Can the Public See on the Protection Order Registry?

Federal law requires that only a respondent's name appear on a publicly accessible database on the Internet, such as Indiana's Protection Order Registry. This means that you should use the juvenile petitioner's or protected person's full name in the court file—in your case management system and in the Protection Order Registry—because it cannot be and is not accessible to the general public via the Internet on the Registry. The respondent's full name will be visible to the public, however, even if the respondent is a juvenile. Law enforcement personnel, court staff, and other authorized individuals will be able to access the petitioner's full name, along with the names of other protected persons, in the database. If a court only uses a juvenile's initials, these authorized users will not be able to access accurate and complete case information.

What Can the Public See on mycase.in.gov?

Again, due to federal protections, only the defendants' names are available for viewing when a member of the public searches on the Internet for information about a no-contact order in a criminal case. This is true regardless of whether a party or a protected person is a juvenile. No

¹ Admin. Rule 9 is currently under review, and as such, this citation may change.

civil protection order case information is displayed on mycase.in.gov—only criminal cases with no contact orders (and in those cases, only the defendant’s information is viewable). As a reminder, mycase.in.gov is the publicly searchable version of the Odyssey database.

What About Public Access to the Court File or the Hearing?

According to Ind. Code 31-39-1-2, most juvenile court records are confidential, and under the provisions of Ind. Code 31-32-6, a juvenile court may close the proceedings. For these reasons, it may be beneficial to transfer the protection order case to a juvenile court in order to have the hearing occur in a more controlled setting, and to secure the court file—especially if both the petitioner and respondent are minors. However, the case must retain the PO case type designation. Court staffs should clearly mark the physical case file “Confidential” once it has been transferred to the juvenile docket. Within the courthouse offices (e.g. at a public terminal in the clerk’s office), it is recommended that the staff restrict access to the file in the case management system, once it has been moved to the juvenile docket and marked “confidential.”